

STATE OF MISSISSIPPI
DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY AND CHILDREN'S SERVICES

Section E:
Eligibility Foster Care
Financial Assessment

ELIGIBILITY FOSTER CARE FINANCIAL ASSESSMENT

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The Mississippi Department of Human Services will hereinafter be known as “MDHS” and its Division of Family and Children’s Services hereinafter will be known as “DFCS”.

I. Overview of Title IV-E Eligibility

A. Introduction

Mississippi Department of Human Services (MDHS)/ Division of Family and Children’s Services (DFCS) has been designated to administer or supervise the administration of the Title IV-E State Plan. DFCS also administers or supervises the administration of the State Child Welfare Services Plan under Subpart 1 of Title IV-B of the Social Security Act.

With direction from the youth court, DFCS has the responsibility for placing children in Resource Homes or child care institutions. Payments are made for each child whose placement and care in a Resource Home or child care institution is the responsibility of DFCS, which administers the approved State Title IV-E plan, or any other public agency with whom the DFCS has made an agreement, which is still in effect.

The Title IV-E Program, authorized by Title IV, Part E of the Social Security Act, provides funds to states for maintaining certain children in foster care or in adoptive families. It also provides funds for the administration of the program and for the training of staff who work with the children. Children classified as Title IV-E eligible must have some relationship to the general Aid to Families with Dependent Children (AFDC) program under Title IV, Part A of the Social Security Act and must meet certain other criteria outlined in this Section.

Other funds used for board payments are Title IV-B, (Subpart 1), Child Welfare Service (CWS) or through local funds. Local funds are available when a child has income available to cover all or part of the monthly board payment. Local funds are used in conjunction with Title IV-E and CWS funds. Medicaid is funded through Title XIX.

For purposes of title XIX, any child with respect to whom foster care maintenance payments are made under this section is deemed to be a dependent child as defined in section 406 (as in effect as of July 16, 1996) and deemed to be a recipient of aid to families with dependent children under part A of this title (as so in effect). For purposes of subtitle I of title XX, any child with respect to whom foster care maintenance payments are made under this section is deemed to be a minor child in a needy family under a State program funded under part A of this title and is deemed to be a recipient of assistance under such part. (42 U.S.C. 672 § 472 (h)(1))

The Title IV-E program is coordinated at the local level with the programs at the State or local level assisted under Titles IV-A, IV-B and XX of the Act and under all appropriate provisions of Federal law. The Title IV-E plan for foster care and adoption assistance payments is in effect in

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all political subdivisions of the State and is mandatory upon those political subdivisions administering it. (1) the State agency administering the approved State Title IV-E plan, or (2) any other public agency with whom the State agency administering or supervising the administration of the approved State Title IV-E plan has made an agreement which is still in effect. http://www.acf.hhs.gov/programs/cb/laws_policies/policy/pi/2007/pi0702b.htm (See also, (42 U.S.C. 671 § 471)

Payments:

1. Foster care maintenance payments for a child in foster care may cover the cost of (and the cost of providing) the following:
 - food,
 - clothing,
 - shelter,
 - daily supervision,
 - school supplies,
 - a child's personal incidentals,
 - liability insurance with respect to the child,
 - reasonable travel to the child's home for visitation with family, or other caretakers
 - reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement.

Local travel associated with providing the items listed above is also an allowable expense. In the case of child care institutions, such items must include the reasonable costs of administration and operation of such institutions as are necessarily required to provide the items described in the preceding sentences. (See Social Security Act, Sec. 472 (b)(1) & (2))

B. Determination of Title IV-E Eligibility

Title IV-E benefits are an individual entitlement for certain children in out-of-home placement. There are two major categories of Title IV-E status: Eligibility and Reimbursability.

Eligibility is determined in accordance with a voluntary placement agreement or a judicial determination. The "contrary to the welfare" determination must be made in the first court ruling that sanctions (even temporarily) the removal of a child from home. If the determination regarding "contrary to the welfare" is not made in the first court ruling pertaining to removal

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from the home, the child will not be eligible for Title IV-E foster care maintenance payments for the duration of that stay in foster care. (42 U.S.C. 672 § 472(a) (2) (A)(ii)); 45 CFR § 1356.21(b)(1)(ii)

Eligibility is determined when the child enters an out-of-home placement. A child is Title IV-E eligible if the basic criteria are met when the child entered care. Eligibility for foster care funding and Medicaid is an ongoing process which involves:

- 1) Initial determination of eligibility; redetermination of Medicaid eligibility every twelve (12) months; and
- 2) The identification and collection of overpayments made to foster homes/child care facilities.

Reimbursability is determined on a monthly basis. The reimbursability criteria must be met for the state to receive federal support for the child. An assessment of several Title IV-E criteria is required to determine whether the child is federally reimbursable in any particular month. The child must be eligible to be reimbursable. However, once eligibility is established, a child may lose and regain reimbursability depending on changes in the circumstances of placement.

Foster board payments may be made to Resource Homes, group homes, emergency homes, or other facilities licensed by the agency for the purpose of providing foster care.

Administrative costs associated with a child who is potentially eligible for benefits under Title IV-E State Plan and at imminent risk of removal from the home, shall be considered for expenditure only if (a) reasonable efforts are being made to prevent the need for, or if necessary to pursue, removal of the child from the home and (b) a determination or re-determination has occurred not less often than every 6 months as to whether the child remains at imminent risk of removal from the home.

There are several criteria which a child must meet to be eligible for Title IV-E benefits. The eligibility conditions are summarized first, followed by a detailed discussion. The key factor of Title IV-E eligibility is the correct wording of the court order.

A removal of a child from the home must occur through either a written voluntary placement agreement, binding on all parties to the agreement, entered into by a parent or other legal guardian which leads to a physical or constructive removal (i.e., a non-physical or paper removal of custody) of the child from the home, or through a judicial order for a physical or constructive removal of the child from a parent or specified relative. (42 U.S.C. 672 § 472(a)(2)(A)(i-ii))

A removal has not occurred in situations where legal custody is removed from the parent or specified relative but the child remains with the same specified relative in that home under

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supervision by the MDHS/DFCS. A child is considered constructively removed on the date of the first judicial order removing custody, even temporarily, from the parent or appropriate specified relative or the date that the voluntary placement agreement is signed by all relevant parties. 45 CFR 1356.21(k)

II. Eligibility Requirements

A. Judicial Determination of Custody

(42 U.S.C. 672 § 472(a)(2)(A)(i-ii)) requires that, for eligibility under Title IV-E foster care, a child's removal from his home must either be pursuant to a voluntary placement agreement or the result of a judicial determination.

When a child is removed from the home, through a voluntary placement agreement or a judicial determination, the child's care become the sole responsibility of DFCS in order to be Title IV-E eligible. Children placed in the joint custody of DFCS and another person/facility will not be Title IV-E eligible.

B. Judicial Language

The judicial determinations for Title IV-E eligibility are intended to ensure that children are not removed from their homes unnecessarily. The first judicial determination must be to the effect that "continuation in the home would be contrary to the welfare of the child" or "removal was in the best interest of the child."

There must also be a judicial determination that "reasonable efforts were made to prevent the child's removal from the home." This determination must be made even if the removal is only temporary.

In emergency situations, time does not allow for reasonable efforts to be made to prevent removal; therefore, the court order must indicate that "due to an emergency situation, reasonable efforts to prevent removal were not possible." If reasonable efforts were not made, there must be documentation that reasonable efforts are now being made to return the child to the home.

"The contrary to the welfare determination will be made in the first court ruling that sanctions (even temporarily) the removal of a child from home. If the determination regarding contrary to the welfare is not made in the first court ruling pertaining to removal from the home, the child will not be eligible for Title IV-E foster care maintenance payments for the duration of that stay in foster care." (45 CFR § 1356.21 (c))

For Title IV-E eligibility and pursuant to MISS. CODE ANN. § 43-21-603(7), the judicial

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determination must contain language as follows:

- "Removal was in the best interest of the child" or "to remain in the home would be contrary to the welfare of the child"
- "Reasonable efforts have been made to maintain the child within his own home"
- "The circumstances are of such an emergency nature that no reasonable efforts have been made to maintain the child within his own home and there is no reasonable alternative to custody and;"
- "Reasonable efforts will be made to return the child," or
- "Reasonable efforts to maintain the child within his home shall not be required if the court determines that:"
 - "The parent has subjected the child to aggravated circumstances. (including but not limited to abandonment, torture, chronic abuse, and sexual abuse); or"
 - "The parent has been convicted of murder or convicted of voluntary manslaughter of another child of that parent; or"
 - "The parent has aided or abetted, attempted, conspired, or solicited to commit that murder or voluntary manslaughter; or a felony assault that results in the serious bodily injury to the surviving child or another child of that parent; or"
 - "The parental rights of the parent to a sibling have been terminated involuntarily; and"
 - "The effect of the continuation of the child's residence within his own home will be contrary to the welfare of the child and that the placement of the child in foster care is in the best interest of the child."

The first court order must specify "contrary to the welfare of the child," which defines the first month in which DFCS may collect federal reimbursement for the child, assuming all other criteria are met.

In situations where DFCS was unable to obtain a court order which contained clear language indicating the court's determination regarding the best interests of the child and the reasonable efforts of DFCS to prevent the removal of the child, a *Nunc Pro Tunc* (meaning "now for then") order cannot be used by the court to make a retroactive determination of the removal circumstances.

Bench notes do not constitute acceptable documentation of judicial determinations. In accordance with the regulations, the only acceptable alternative documentation of judicial

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determinations, absent language in a court order, is a transcript of the court proceedings. We recommend that the State agency collaborate closely with the judicial system to assure that the necessary judicial determinations are made and appropriately recorded for children who must be removed from their homes.

Court orders that reference state law to substantiate judicial determinations are not acceptable, even if State law provides that a removal must be based on a judicial determination that remaining in the home would be contrary to the child's welfare or that removal can only be ordered after reasonable efforts have been made. (45 CFR § 1356.21(d)(3))

Further, a judicial determination must be obtained that states reasonable efforts were made to finalize the permanency plan that is in effect (whether the plan is reunification, adoption, legal guardianship, placement with a fit and willing relative, or placement in another planned permanent living arrangement) within twelve (12) months of the date the child is considered to have entered foster care, and at least once every twelve (12) months thereafter while the child is in foster care.

If such a judicial determination is not made, the child becomes ineligible under Title IV-E at the end of the month in which the judicial determination was required to have been made, and will remain ineligible until such a determination is made. (45 CFR § 1356.21(b)(2))

Quick Reminder: “Voluntary Placement Agreements”, “Constructive Removal” and “Voluntary Releases for Adoption” are not the same and not interchangeable phrases. Children who are voluntarily released (Voluntary Release for Adoption is signed) to DFCS prior to a judicial determination are not Title IV-E eligible.

Constructive Removal: is a paper removal. This means DFCS has obtained legal custody of the child but does not physically remove the child from the home where the abuse or neglect. (see <http://www.sccgov.org/ssa/fosterca/fcchap17.pdf>)

Voluntary Placement: is an out-of-home placement of a child, by or with participation of DFCS, after the parents or guardians have requested the assistance of DFCS and signed a voluntary placement agreement, (see http://www.ssa.gov/OP_Home/ssact/title04/0472.htm)

Voluntary Placement Agreement: is a written binding agreement between DFCS and the parents or guardians of a child and which specifies, at a minimum, the legal status of the child and the rights and obligations of the parents or guardians, the child, and DFCS while the child is in placement. (see http://www.ssa.gov/OP_Home/ssact/title04/0472.htm)

Voluntary Release for Adoption: is a written affirmation that the surrendering parent(s) voluntary released their parental rights to their child.

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1. Voluntary Placement Agreements

"Voluntary placement agreements" contain several criteria which set them apart from voluntary releases for adoption:

- The assistance of the DFCS has been requested by the parents or legal guardians
- There is a written agreement, binding to all parties, which specifies the legal status of the child and rights and obligations of parents, child, and DFCS while the child is in placement
- It cannot exceed 180 days
- It can be revoked at any time by the parent or legal guardian

If a voluntarily placed child meets all other Title IV-E requirements, s/he may be Title IV-E funded up to 180 days from the date of the Agreement.

Prior to the release, while the Agreement is in effect, the DFCS can petition the court for a judicial determination regarding the removal of the child. If the court determines that Title IV-E eligibility can be established beyond the 180 days.

The child cannot remain Title IV-E funded for more than 180 days without the judicial determination by a court to the effect that such a placement is in the best interest of the child. (42 U.S.C. 672 § 472(e); 45 CFR § 1356.22(b))

2. Goal of Services Provided to Parents or Other Relatives

Federal requirements governing Title IV-E foster care specify that the goal of services provided parents or other relatives will be to:

- Return the child to his own home;
- Arrange placement with other relatives;
- Make other appropriate plans for the child's permanent care such as adoption;
- Make some other plans that best meets the needs of the individual child.

These services must be provided on a regular basis during the time of placement of the child in foster care. The safety, permanency, and well being of the child must be addressed at each review of the child's plan and documented in the case record. (*See* Section D, "Foster Care", for more details regarding requirements for the child's permanency plan.)

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C. AFDC Eligibility Requirements 472(a)(3)(A)(i);(ii)(I)(II);(3)(B)

AFDC relatedness refers to the fact that in order for a child to be classified as Title IV-E eligible, he must have some relationship to the general AFDC program authorized under Title IV, Part A IV-A of the Social Security Act.

This relationship can be established if any one of the following criteria is met:

- In the month the child was removed from the home, the child was in an active AFDC case;
- In the month the child was removed from the home, the child would have been eligible for AFDC had an application been made; or
- In the six months prior to the month the child was removed from the home, the child was living with a qualified relative and would have been eligible for AFDC if an application had been made.

For those children who were not in an active AFDC grant at the time of removal, but there exists the potential that these children could be Title IV-E eligible if application were made, the following AFDC eligibility conditions apply:

- Age
- Enumeration
- Residence
- School Attendance
- Citizenship
- Living in the home of a specified relative
- Deprivation
- Need as determined by:
 - Resources (\$10,000) family unit
 - Income

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1. Age

The age limit for Title IV-E funding is eighteen (18) years of age. The Worker will have documented evidence of the child's date of birth in the social service case record.

Examples of documentation are birth certificates, school records, hospital records, immunization records, etc. Title IV-E funds cannot be utilized without verification of the child's age documented in the social service case record.

A child will lose Title IV-E eligibility and reimbursability when s/he reaches the age of eighteen (18).

2. Enumeration

The application for and disclosure of a Social Security account number is a technical factor of eligibility.

Only those children for whom there is in the case file a validated Social Security Number, or for whom an application for a Social Security Number has been completed are eligible for Title IV-E.

3. Residence

The child must be a resident of the State of Mississippi. Residents of the State of Mississippi are persons who are voluntarily living in Mississippi with the intention of making their home here. The child does not become ineligible for Title IV-E on the basis of residence in the event out-of-state placement is made or the child moves out of state with his Resource Parents or adoptive parents.

4. Compulsory School Attendance

It is mandatory that the child must attend school according to Mississippi mandatory school attendance law and that documentation is maintained in the case record.

[DFCS has a system that] provides assurances that each child who has attained the minimum age for compulsory school attendance under State law and with respect to whom there is eligibility for a payment under the State plan is a full-time elementary or secondary school student or has completed secondary school, and for purposes of this paragraph, the term “elementary or secondary school student” means, with respect to a child, that the child is –

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- (A) enrolled (or in the process of enrolling) in an institution which provides elementary or secondary education, as determined under the law of the State or other jurisdiction in which the institution is located;*
- (B) instructed in elementary or secondary education at home in accordance with a home school law of the State or other jurisdiction in which the home is located;*
- (C) in an independent study elementary or secondary education program in accordance with the law of the State or other jurisdiction in which the program is located, which is administered by the local school or school district; or*
- (D) incapable of attending school on a full-time basis due to the medical condition of the child, which incapability is supported by regularly updated information in the case plan of the child; (42 U.S.C. 671 § 471 (a)(30))*

5. Citizenship and Alienage

The child must be a citizen of the United States or an alien lawfully admitted for permanent residence or otherwise residing in the United States under color of law.

If the child is an alien, the case record must have verification that the child is a legal alien. The alien should have an INS 1-151 (Alien registration card), an INS 551 (Reentry permit), or an INS-I-94 (Refugee green card). In any case where the child is an alien disqualified by the Immigration and Nationality Act, the child is ineligible for receiving Title IV-E funds.

Subject to Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, if the child is an alien disqualified under section 245A(h) or 210(f) of the Immigration and Nationality Act from receiving aid under the State plan approved under section 402 in or for the month in which the agreement described in paragraph (2)(A)(i) was entered into or court proceedings leading to the determination described in paragraph (2)(A)(ii) were initiated, the child shall be considered to satisfy the requirements of paragraph (3), with respect to the month, if the child would have satisfied the requirements but for the disqualification. (42 U.S.C. 672 § 472(4))

Additionally, the state shall have in effect procedures for verifying the citizenship or immigration status of any child in foster care under the responsibility of the state under this part or part B, and without regard to whether foster care maintenance payments are made under 472(a)(27) on behalf of the child. (See, 42 U.S.C. 671 § 471 (a)(27))

No payment may be made to parents with respect to any applicable child for a fiscal year that:

- a. Would be considered a child with special needs under 473(c)(2);*
- b. Is not a citizen or resident of the United States; and*

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- c. Was adopted outside of the United States or was brought into the United States for the purpose of being adopted.*

A child that is not a citizen or resident of the US and was adopted outside of the US or brought into the US for the purpose of being adopted may be eligible for adoption assistance payments if the initial adoption of the child by parents is a failure and the child is subsequently placed into foster care. (See Social Security Act, Sec. 42 U.S.C. 673 § 473(a)(7))

6. Living with a Specified Relative

If a child was not removed from a parent, s/he had to have been living with another relative who comes within the fifth degree of relationship. The child and relative must live together in a place of residence maintained by the relative as his home. The child must also have qualified for AFDC during the month the child came into custody.

The following relationships meet the requirement of specified relative:

- Parents (either by birth, legal adoption or step relationship)
- Grandparents (up to great-great-great)
- Siblings (half, whole, step)
- Aunts/uncles (up to great-great)
- Nieces/nephews (up to great-great)
- First cousins
- Children of a first cousin (first cousin once removed)
- Spouses of any person named in the above groups even after the marriage is
- Terminated by death or divorce.
- Verification of specified relative relationship can be achieved through private or public records (i.e. birth certificates, marriage certificate, divorce decrees, family Bible, or court order)

Removal has not occurred in situations where legal custody is removed from the parent or specified relative yet the child remains with the same relative in that home under supervision by the DFCS.

The child must have been living with the parent or specified relative, and was AFDC eligible in that home in the month of the voluntary placement agreement or initiation of court proceedings;

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or

The child must have been living with the parent or specified relative within six months of the month of the voluntary placement agreement or the initiation of court proceedings, and the child would have been AFDC eligible in that month if s/he had still been living in that home. (See, 45 CFR 1356.21(k))

7. Deprivation

Deprivation of parental support is a condition for AFDC eligibility. A child is deprived of the support of one of his parents for one of the following reasons:

- a) Parental absence from the home due to:
 - Parental absence from the home may be due to lack of marriage, voluntary separation, desertion, or divorce.
 - Deprivation exists when a parent lives at an address separate and apart from the child except when:
 - (1) the parent left home to seek or accept employment or
 - (2) the parent is absent solely because of active duty in the uniformed service of the United States.
 - Continued absence exists when a parent is out of the home and the nature of the absence is such that it terminates or interrupts that parent's functioning as a provider of maintenance, physical care, or guidance for the child.
 - The known or indefinite duration of the absence precludes the child from relying on the parent's support and care of the child, thus increasing the responsibilities of the caretaker relation with whom the child lives.

Deprivation will be established in relation to one or both legal and/or natural parents. If the child has a legal father and a different natural father, deprivation must be established in relation to both fathers.

In the case of a legally adopted child, deprivation is established only in relation to the adoptive parent(s). Deprivation is automatically established in cases where an individual has adopted a child.

For Title IV-E purposes, deprivation must be established in relation to the home from which the

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child was removed or in relation to the specified relative's home at the time AFDC relatedness is being determined.

- Living with both parents. When a child is living with both the mother and father at the time of removal, the condition of deprivation shall be established in relation to one or both parents being incapacitated or in relation to the unemployment of the parent who is the principal wage earner.
- Living with one parent. When a child is living with only one parent at the time of removal, the condition of deprivation shall be established in relation to the absent parent.
- Living with qualified relative. When the child is not living with either parent at the time of removal and was removed from the home of a specified relative (a relative within the 5th degree) and both parents are living together or separately, the condition of deprivation will be established in relation to both absent parents.
- Living with someone other than parents or qualified relative. When the child is not living with either parent at the time of removal and was removed from the home of someone other than a specified relative, the condition of deprivation shall be established in relation to the specified relative's home at the time AFDC eligibility is being considered (during the six-month exception).
 - For example, if a child is removed from the home of a non-relative, the Worker may be able to establish that the child lived with his parent or a specified relative within the six months prior to court proceedings. This time will be considered to determine if the child would be AFDC eligible had an application been made. Whether or not deprivation is met must be established on the parent's situation.

If the child is removed from a non-relative and has not lived with a parent or a qualified relative within six months prior to custody, the child is not Title IV -E eligible.

a) Incapacity

Incapacity is a condition of deprivation which is applicable to the physical or mental incapacity of one or both parents. Medical documentation and a medical review are required for a determination of incapacity if the parent is not receiving a disability type of assistance, such as Supplemental Security Income (SSI) or Social Security.

b) Death

Death of a parent must be verified with supporting evidence such as a death certificate or verification from Social Security, etc. that the child(ren) receives survivor's benefits.

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c) Unemployment of the Parent who is the Principal Wage Earner.

When both parents are in the household at the time of removal and neither are disabled or employed, the Worker can make a determination as to whether the principal wage earner is unemployed. The Worker must have verification of wages/unemployment for the past two years to determine the primary wage earner.

D. Support from an Absent Parent

When a child is placed in care, the right of assignment of child support becomes the responsibility of the county to whom custody was given.

The Worker is responsible for identifying and reporting both legal parents of the child to Child Support Enforcement (CSE) for the collection and assignment of child support.

The Worker will enter the Eligibility Determination information Mississippi Automated Child Welfare Information System (MACWIS), MACWIS will refer all legal and putative parents to CSE. Through the Interface System, the Child Support referral will be sent to the designated county child support office.

Assignment of support rights cannot be waived or excused. If child support has been ordered the Worker will mail a copy of the order to the county CSE Office. CSE will determine whether to pursue admission of paternity and child support from the absent parent. The Worker is responsible for obtaining as much identifying information on the absent parent(s) as possible to ensure the referral will be complete. If additional information is required by CSE, the child support worker will contact the Worker who submitted the referral. (42 U.S.C. 671 § 471(a)(17))

Only legal parents (which includes adoptive parents) and putative fathers will be reported. Step-parents are not legally responsible for step-children.

If a child has been a recipient of AFDC at any time prior to custody, child support assigned and collected by CSE will be subject to recoupment of the AFDC benefit received by the child. Recoupment of the benefit will be deducted from the child's support payment before the payment will be forwarded to DFCS. Only the amount received at DFCS will be applied toward the child's board payment. If a child's funding source changes from Title IV-E to CWS or vice versa, CSE must be notified.

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1. Resources

The amount of real and personal property that can be reserved for the child's family unit cannot exceed \$10,000 per family unit. (see 42 U.S.C. 672 § 472 (a)(3)(B))

The family unit consists of foster children, mother, father, and any siblings under the age of eighteen (18) who are in the home at the time of the child's removal. After initial eligibility is determined, only the child's personal resources will be applied to the \$10,000 resource limit.

MACWIS will automatically assess the child's \$10,000 resource limit on a monthly basis.

Changes in a child's funding source may occur frequently as a result of the \$10,000 resource limit.

The Worker will disregard the home property occupied by the family unit as resources and any resources which are unavailable (such as property in probate proceedings, divorce litigations). For eligibility purposes, the family units combined equity value of personal and household effects cannot exceed \$10,000.

Methods for verification of resources include such sources as car tags, tax receipts, or bank statements. The Worker will inquire as to cash value on life insurance, burial plots, etc. The Worker will request the family unit to give and/or verify resource information; however, if the family refuses to provide resource information and verification, eligibility for Title IV-E funding cannot be determined.

The maximum amount of resources a child may have in order to be eligible for Title IV-E funding is \$10,000. The Worker will use these resources to assist in meeting the needs of the child. By using these funds to keep the resources under the maximum amount, the Worker will help the child to remain Title IV-E and Medicaid eligible.

2. Income

The child's Title IV-E eligibility must be based on the income requirements for the family members in the home from which he was removed. A regular AFDC budget is used to determine this eligibility.

MACWIS will make the determination based on the information input by the Worker.

The initial eligibility budget will include the family unit which consists of the legal parent(s) and any siblings under the age of eighteen (18) who live in the household from which the children were removed.

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The household's income will be verified before a Title IV-E eligibility determination can be made. Income consists of earned and unearned income, such as wages, unemployment, Social Security, SSI, veteran benefits, railroad retirement, child support, contributions, etc.

Verification for Social Security Administration /SSI benefits will be obtained through notices of award, and in some instances, can be verified through the MAVERICS system. Wage stubs, employer's statement and income tax forms may be used to verify earned income. Unearned income must be verified through the source from which it is received.

When the child is removed from the home of a specified relative rather than the legal parent, the child is considered to be a separate "assistance unit" and eligibility is determined using only the income and resources of the child and his/her immediate sibling group who reside with the relative from which s/he was removed.

The Worker may find it to be more beneficial for DFCS to include some members of the household as members of the assistance unit and other times it may not be beneficial. The Worker will review each case to determine the most advantageous assistance unit composition.

In situations where a couple is legally married or in situations where a couple is not legally married, and both have children from prior unions, the Worker will consider the household as having two separate assistance units. The child from the union shall not be considered a member of the assistance unit unless one of the deprivation factors is applicable to that child.

When a foster child has income, either earned or unearned, his/her income will be used to reimburse the DFCS for the monthly payments made to the Resource Home or child caring institution. Note the following procedures.

- Wages: The earnings are considered in the eligibility determination only if the child is between the ages of sixteen (16) and twenty-one (21) and not attending school.
- Child Support: The CSE (Title IV-D) staff will follow established procedures for transfer of such payments to appropriate county bookkeeping staff and will report the amount of the current obligation and any surplus transmitted that month from previous Title IV-D computations to the county bookkeeper.
 - County bookkeeper will document, in MACWIS, the amount received and the child's income will automatically be evaluated.
- Unearned Income: Social Security and VA benefits are considered in the determination of eligibility and in the determination of the child's net income to be included in MACWIS to ensure reimbursement. SSI is not counted in the child's test budget; however, the income will be used to reimburse the board payment.

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E. Transfer of Child to Tribal Agency

45 CFR Part 1356.67

The State agency has established and maintains procedures for the transfer of responsibility for the placement and care of a child under a State title IV-E plan to a Tribal title IV-E agency or an Indian Tribe with a title IV-E agreement. At a minimum, the State agency transfer procedures:

1. Are established and maintained in consultation with Indian Tribes;
2. Do not affect a child's eligibility, receipt of services, or payment under title IV-E or the medical assistance program operated under title XIX;
3. Establish eligibility for title IV-E at the time of transfer, if an eligibility determination is not already completed; and
4. Provide for essential documents an information necessary to continue a child's eligibility under title IV-E and Medicaid programs under title XIX to the Tribal title IV-E agency or an Indian Tribe with a title IV-E agreement, including but not limited to the following:
 - All judicial determinations to the effect that continuation in the home from which the child was removed would be contrary to the welfare of the child and that reasonable efforts described in section 471(a)(15) on the Act have been made;
 - Other documentation the State agency has that relates to the child's title IV-E eligibility under sections 472 and 473 of the Act;
 - Information and documentation available to the agency regarding the child's eligibility or potential eligibility for other Federal benefits;
 - The case plan developed pursuant to section 475(1) of the Act, including health and education records of the child pursuant to section 475(1)(C) of the Act; and
 - Information and documentation of the child's placement settings, including a copy of the most recent provider's license or approval.

(Not applicable to Tribes)

III. Reimbursability Requirements

A. Placement

To be Title IV-E reimbursable, the child must be placed in a licensed Resource Home or licensed child care institution.

1. Resource Home

A Resource Home for children is one licensed by DFCS as meeting the standards established for

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licensing. The term “Resource Home” includes adoptive homes. (See Section F policy)

2. Child Care Institution

A Child Care Institution is a child-caring institution, either private or public, which accommodates no more than twenty-five (25) children and is licensed by the State as meeting the standards established for licensing.

The term “child-care institution” means a private child-care institution, or a public child-care institution which accommodates no more than twenty-five children, which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing, except, in the case of a child who has attained 18 years of age, the term shall include a supervised setting in which the individual is living independently, in accordance with such conditions as the Secretary shall establish in regulations (42 U.S.C. 672 § 472 (c)(2))

In order for a child care institution to be eligible for title IV-E funding, the licensing file for the institution must contain documentation which verifies that safety considerations with respect to the staff of the institution have been addressed. (45 CFR 1356.30(f))

3. Adoptive Placement

An Adoptive Placement is an adoptive home that meets licensure requirements which has been approved through the Adoption Unit of DFCS.

4. Non-Reimbursable Placements

Detention Facilities – detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent are not considered Title IV-E reimbursable.

The term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent. (42 U.S.C. 672 § 472 (c)(2))

Relatives – Foster board payments are not made to children placed with relatives unless the relative becomes a licensed foster home.

A child may meet all of the Title IV-E eligibility criteria at the time of removal except that s/he is not placed in one of the reimbursable placements outlined in 1-3 above.

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There is no time limitation on the child becoming Title IV-E reimbursable if all factors, except placement, are met initially. If later, the child enters an approved facility, thereby meeting all of the factors, s/he should become Title IV-E reimbursable.

Administrative costs associated with an otherwise eligible child who is in an unallowable facility or an unapproved or unlicensed relative home, and who is removed in accordance with section 472(a) from the home of a relative specified in section 406(a) (as in effect on July 16, 1996), shall be considered only for expenditures: (a) for a period of not more than the lesser of 12 months or the average length of time it takes for the State to license or approve a home as a foster home, in which the child is in the home of a relative an application is pending for licensing or approval of the home as a foster family home; or (b) for a period of not more than 1 calendar month when a child moves from a facility not eligible for payments under this part into a foster family home or child care institution licensed or approved by the State.

(http://www.acf.hhs.gov/cwpm/programs/cb/laws_policies/laws/cwpm/qaHistory.jsp?citID=36&id=794) (See, 42 U.S.C. 6720§472(i)(1)(A) and 45 CFR 233.90(v)(c)(1))

B. Foster Teen Parent

When a child in custody gives birth to a child, special instructions apply. If the baby is taken into custody, the baby will have eligibility determined as a foster child.

Section 475(4)(B) of the Social Security Act requires that foster care maintenance payments for a minor parent in foster care cover a child of such parent if the child is placed with the minor parent. Neither the statute nor regulations require the State to have placement and care responsibility for the child in order for such costs to be included in the minor parent's foster care maintenance payment. Good social work practice suggests that the minor parent's case plan include the needs of the child and that the child's needs and interests be addressed during the six-month periodic reviews and permanency hearings held on behalf of the minor parent. However, the State is not required to satisfy these requirements independently on behalf of the child because s/he is not under the State's responsibility for placement and care and, therefore, pursuant to Federal law and regulations, is not in foster care.

However, if the baby is not placed in custody and is placed in the same home as the mother, a special board rate will be given to the Resource Parents to help with the care for both minor mother and baby. The board payment will remain the special rate for the duration of the custody episode, provided the child remains in the home with the mother and is not in custody.

In cases where (i) a child placed in a foster family home or child-care institution is the parent of a son or daughter who is in the same home or institution, and (ii) payments described in subparagraph (A) are being made under this part with respect to such child, the foster care maintenance payments made with respect to such child as

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otherwise determined under subparagraph (A) shall also include such amounts as may be necessary to cover the cost of the items described in that subparagraph with respect to such son or daughter. (42 U.S.C. 675 §475(4)(B))

(j) Child of a minor parent in foster care. Foster care maintenance payments made on behalf of a child placed in a foster family home or child care institution, who is the parent of a son or daughter in the same home or institution, must include amounts which are necessary to cover costs incurred on behalf of the child's son or daughter. Said costs must be limited to funds expended on items listed in the definition of foster care maintenance payments in §1355.20 of this part. (45 CFR §1356.21(j))

IV. Medicaid Eligibility

The medical expenses of all children in the custody of DFCS are paid, and the primary sources of funding are Medicaid and local/state funds.

Foster children are Medicaid eligible when the child:

- Receives SSI. The Medicaid benefits are authorized by the Social Security Administration.
- Is eligible for and receiving Medicaid in the home of a parent or unlicensed relative. The eligibility determination and authorization are handled by the Division of Medicaid office in the county of residence.
- Meets the following eligibility requirements:

A. Custody

The child must be in the sole custody of the DFCS. Children placed in joint custody of DFCS and another person(s) will have their Medicaid eligibility determined by the local county Medicaid Office. Application must be made by the joint custodian or the COR Worker if the joint custodian is not a licensed resource home.

B. Resources

The child's own resources cannot exceed \$10,000. MACWIS automatically re-evaluates the child's resource limits for Medicaid eligibility every month. The Worker will make every effort to maintain the child's resources below \$10,000.

Children who receive SSI Medicaid will not be affected by the \$10,000 resource limit. However, SSI has a resource limit of \$2,000 which will terminate SSI Medicaid and monetary benefits.

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C. Income

The child's monthly unearned income will be tested against the 185% AFDC need rate for one child which is \$403. If the child's monthly unearned income exceeds \$403, the child will be ineligible for Title IV-E Medicaid. The child's own unearned monthly income will then be tested against the State Foster Care Need Standard. The State Foster Care Need Standard is the set amount of money established by the State for the foster care of this child. The amount may vary depending on the age and circumstances of the child and the type of home or institution in which s/he is placed. MACWIS will test, on a monthly basis; the child's income against the board rate the child is eligible for based on the age of the child and the placement.

If the child's unearned income is below this rate, the child is eligible for CWS Medicaid.

A child in a licensed relative placement will have his/her Medicaid eligibility determined by testing his monthly unearned income against the regular board payment rate based on age for CWS Medicaid.

If the child's unearned income exceeds the amount of the board rate, the child is ineligible for Medicaid through the foster care system. The Worker will refer the relative/child's assigned worker) providing care, who may be eligible for Medicaid, to the Division of Medicaid office.

Medicaid Card. Children who are eligible for Medicaid will be issued a one time plastic Medicaid card. The card will be mailed to the County of Responsibility (COR). In the event the child is placed outside his own county, the COR Worker will be responsible for obtaining the card (or) placement and moving the card with the child. A duplicate Medicaid card can be requested from the Electronic Data System (EDS) by the Worker, should the card be misplaced. When the child leaves custody, the Worker should retrieve the card from the placement and give the card to the child's custodian or to the child, if the child is age eighteen (18) or older and file a copy of the card in the child's case file.

D. Interstate Compact Placement of Children/COBRA Medicaid

Title IV-E foster children receiving Title IV-E adoption assistance and ICPC children who are Title IV-E eligible in the state of origin are eligible for Medicaid in the state in which they reside provided a) the Worker has written verification that the child is Title IV-E eligible in the state of responsibility and b) the child is in a licensed Resource Home/facility in Mississippi.

The Worker will be responsible for initiating Medicaid for ICPC/COBRA children provided the children have entered the state through ICPC. If the children are not known to ICPC at State Office, the Worker will direct the Resource Home/Facility to the county Economic Assistance

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office for application of Medicaid benefits.

E. Third Party Liability

DFCS is required to take all reasonable measures to determine the legal liabilities of a "third party" to pay for medical services. The Worker will report all Third Party Liabilities (TPL) to Eligibility either by documentation to the Eligibility Unit or by entering the information in MACWIS. The Worker will make direct inquiry to the parent(s) or guardian regarding whether the child has any type of private insurance coverage.

F. Refugees and/or Unaccompanied Minors

The Worker will be alert to any children coming into care who may qualify for federal funds under the Refugee Act of 1980 (see 45 CFR 400). The funds are available for an eight (8) month period beginning with the first month of entry into the United States. For unaccompanied refugee minor cases, funds are available as long as the child is in care.

There are two broad categories of children who may qualify for refugee funding:

- Those entering the United States with their families.
- Those designated as "unaccompanied minors" on the 1-94 cards.

Since the plan for these children does not include "returning the child to the home", these children must be certified for Child Welfare System (CWS) funds and not Title IV-E. The children will also be eligible for Medicaid benefits. To be eligible for foster care refugee funds, one of the following conditions must be met:

- The child must have been removed from the home of a family receiving refugee financial and medical assistance and the child must have been included in the grant, or
- The child has appropriate refugee or alien status as established by the National Immigration Service (NIS) and the child has been in the United States less than eight months, or
- The child entered this country without a family and has received appropriate unaccompanied minor status by the NIS.

G. Child Welfare Service Eligibility

Payments for Title IV-E foster care end one month following child's eighteenth (18th) birthday. Children who are not eligible for Title IV-E foster care payments will have their needs tested to

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determine eligibility for foster care payments to be made from Title IV-B, CWS, funds. The criteria for CWS eligibility are that the child:

- Must be in the custody of the DFCS and under twenty (20) years of age if the court order is by the youth court or under twenty-one (21) years of age if the order is by the chancery court.
- Must be placed in an approved Resource Home or child caring facility.
- Own unearned income must not be over the amount of the board payment for his/her age group.
- Cannot have resources which exceed \$10,000.

If all of the above criteria are met, the child will be eligible for foster care payment to be made from CWS funds.

Use of "Local" Funds:

The child's own monthly income, if any, is considered "local" funds. The child's own income up to the amount of that child's board payment will be used and applied toward his board payment each month.

Documentation of the receipt of income for a child will be made in MACWIS and MACWIS will evaluate that information in relationship to eligibility and the amount to be applied to the monthly board rate.

V. Processes

A. Initial Eligibility Determination Process

The following process will be used to determine initial eligibility:

In order to meet this initial determination timeline, the COR Worker will have five (5) days to send the Eligibility Unit a copy of the court order that includes "reasonable efforts" language; child's birth certificate (or application); child's Social Security card (or application), proof of income; and resources. The Eligibility Unit then will have five (5) days from receipt of required documents are received to approve a placement for a child as their work load permits.

If documentation is missing, the Eligibility Unit will notify the Worker via the Eligibility tab/screen in MACWIS. The Worker will have 5 days to return the needed documents. This documentation notification will be sent to the Worker and the Area Social Work Supervisor (ASWS) by e-mail.

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The Eligibility Unit will determine eligibility for Title IV-E, CWS and Medicaid.

1. Change in Placement

The Worker will enter custody and placement information in MACWIS within three days of the date of custody. When Title IV-E eligibility information and documentation are received, it should be entered into MACWIS by the COR Worker on the appropriate eligibility screens. The eligibility process should be completed in MACWIS within 10 days from the date of custody.

All court orders, verification of birth, Social Security card, verification of income and resources must be maintained in the case file. MACWIS will determine the child's eligibility for Title IV-E, CWS, and Medicaid based on the information entered by the Worker.

In the event of the placement change, the COR Worker will have five (5) days from the date of the change to enter a placement change. The Eligibility Unit will have five (5) days to approve the placement change.

B. Redetermination Process

Re-determinations on children in custody are completed annually and notices of these re-determinations are generated by MACWIS as follows:

1. First notice will be sent to the COR Worker as a tickler sixty (60) days prior to the anniversary month of the effective date of the previous eligibility determination.
 - a. Following the Permanency Hearing, the COR Worker must verify that the court order contains the appropriate language.
 - b. This must be documented in MACWIS by selecting "Court" then click the "Legal History" icon.
 - c. Go to "Detail" Tab and click "add new button".
 - d. Enter the new information, making sure to check the "yes" button for the "reasonable efforts" made to finalize a permanent plan question on "Edit Permanency Hearing Record".
2. Thirty (30) days from the generation of the first tickler, the COR Worker will receive an alert and the ASWS will receive a tickler.
3. Forty-four (44) days from the generation of the first tickler, the ASWS will receive an alert and the Regional Director (RD) will receive a tickler.

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Prior to time for re-determination, the Worker will receive a tickler as a reminder to review the child's case and complete the redetermination process.

The re-determination process for obtaining Permanency Orders and Medicaid continue. However, as of April 1, 2010, it is no longer necessary to re-determine IV-E eligibility based on income, resources, or deprivation.

C. Change Process

In the event of a change in custody and/or placement, the COR Worker will have five (5) days to enter the information in MACWIS. The Eligibility Worker will have 5 days to approve placement changes.

The COR Worker shall enter changes as soon as they occur. MACWIS will automatically assess the changes and adjust the eligibility status and make the appropriate board or stop IV-E payments. (i.e. when a child reaches eighteen (18) years old.)

It is imperative for the COR Worker to enter the custody removal and placement change dates as soon as they occur to avoid over and under payments to the resource placements.

D. Overpayment Process

The Eligibility Unit, as well as other units, will identify over- and under-payments by viewing the board payment register screen in MACWIS.

If the Resource Parent receives an overpayment, the Resource Parent will send the overpayment to Budgets & Accounting at the State Office.

To reduce erroneous over/under board payments, a daily confirmation tickler process was added to MACWIS for the purpose of notifying the FPS worker that a placement board payment for a child must be confirmed (the process will escalate the tickler up to the ASWS on the 1st day of the month and to the RD on the 4th day of the month if the tickler is not worked). These placement board payments must be confirmed by the 7th of each month or the prior business day if the 7th occurs on the weekend or a holiday.

E. Debit Cards

All recipients of the Adoption Subsidy payments or Foster Care Board payments will receive the payments via the Mississippi Debit MasterCard.

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- Adoption Subsidy payments are designed as a supplemental financial benefit to assist families adopting an eligible child with special needs who would not likely be adopted otherwise. The child must be determined eligible for adoption subsidy by the Resource Specialist and approved by the Resource ASWS.
- Board payments are available for eligible child(ren) placed in the custody of the DFCS and whose placement and care are entrusted to a licensed resource home or child care institution. Eligibility is determined when the child enters an out-of-home placement.

In order to issue a debit card, the payee must have an e-payment account established through the Master Client Tracking System (MCTS). The MCTS will not accept payees who do not have a validated Social Security Number and date of birth. MACWIS will interface with the Social Security Administration for the purpose of validating the Social Security Number of all payees. If the Social Security Number is not validated by Social Security Administration, a tickler will be generated to the Worker currently assigned to the case.

Adoption subsidy and foster care board payments are controlled by the data entered into MACWIS. It is the responsibility of the Worker to ensure that the correct data is gathered and input into the MACWIS in a timely manner.

After the eligibility has been established and payment authorized, the process is as follows:

- It is the responsibility of the Worker to complete the eligibility process within the timelines set forth in policy. The Resource Parents must be advised of the procedures for payment and method of payment delivery.
- Payments will be issued on the fifteenth (15th) of the following month.

STATE OF MISSISSIPPI
DEPARTMENT OF HUMAN SERVICES
DIVISION OF FAMILY AND CHILDREN'S SERVICES

Section E:
Eligibility Foster Care
Financial Assessment

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ELIGIBILITY FOSTER CARE FINANCIAL ASSESSMENT

The Mississippi Department of Human Services will hereinafter be known as “MDHS” and its Division of Family and Children’s Services hereinafter will be known as “DFCS”.

I. Overview of Title IV-E Eligibility

A. Introduction

Mississippi Department of Human Services (MDHS)/ Division of Family and Children’s Services (DFCS) has been designated to administer or supervise the administration of the Title IV-E State Plan. DFCS also administers or supervises the administration of the State Child Welfare Services Plan under Subpart 1 of Title IV-B of the Social Security Act.

With direction from the youth court, DFCS has the responsibility for placing children in Resource Homes or child care institutions. Payments are made for each child whose placement and care in a Resource Home or child care institution is the responsibility of DFCS, which administers the approved State Title IV-E plan, or any other public agency with whom the DFCS has made an agreement, which is still in effect.

The Title IV-E Program, authorized by Title IV, Part E of the Social Security Act, provides funds to states for maintaining certain children in foster care or in adoptive families. It also provides funds for the administration of the program and for the training of staff who work with the children. Children classified as Title IV-E eligible must have some relationship to the general Aid to Families with Dependent Children (AFDC) program under Title IV, Part A of the Social Security Act and must meet certain other criteria outlined in this Section.

Other funds used for board payments are Title IV-B, (Subpart 1), Child Welfare Service (CWS) or through local funds. Local funds are available when a child has income available to cover all or part of the monthly board payment. Local funds are used in conjunction with Title IV-E and CWS funds. Medicaid is funded through Title XIX.

For purposes of title XIX, any child with respect to whom foster care maintenance payments are made under this section is deemed to be a dependent child as defined in section 406 (as in effect as of July 16, 1996) and deemed to be a recipient of aid to families with dependent children under part A of this title (as so in effect). For purposes of subtitle I of title XX, any child with respect to whom foster care maintenance payments are made under this section is deemed to be a minor child in a needy family under a State program funded under part A of this title and is deemed to be a recipient of assistance under such part. (42 U.S.C. 672 § 472 (h)(1))

The Title IV-E program is coordinated at the local level with the programs at the State or local level assisted under Titles IV-A, IV-B and XX of the Act and under all appropriate provisions of Federal law. The Title IV-E plan for foster care and adoption assistance payments is in effect in

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all political subdivisions of the State and is mandatory upon those political subdivisions administering it. (1) the State agency administering the approved State Title IV-E plan, or (2) any other public agency with whom the State agency administering or supervising the administration of the approved State Title IV-E plan has made an agreement which is still in effect. http://www.acf.hhs.gov/programs/cb/laws_policies/policy/pi/2007/pi0702b.htm (See also, (42 U.S.C. 671 § 471)

Payments:

2. Foster care maintenance payments for a child in foster care may cover the cost of (and the cost of providing) the following:
 - food,
 - clothing,
 - shelter,
 - daily supervision,
 - school supplies,
 - a child's personal incidentals,
 - liability insurance with respect to the child,
 - reasonable travel to the child's home for visitation with family, or other caretakers
 - reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement.

Local travel associated with providing the items listed above is also an allowable expense. In the case of child care institutions, such items must include the reasonable costs of administration and operation of such institutions as are necessarily required to provide the items described in the preceding sentences. (See Social Security Act, Sec. 472 (b)(1) & (2))

B. Determination of Title IV-E Eligibility

Title IV-E benefits are an individual entitlement for certain children in out-of-home placement. There are two major categories of Title IV-E status: Eligibility and Reimbursability.

Eligibility is determined in accordance with a voluntary placement agreement or a judicial determination. The "contrary to the welfare" determination must be made in the first court ruling that sanctions (even temporarily) the removal of a child from home. If the determination regarding "contrary to the welfare" is not made in the first court ruling pertaining to removal

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from the home, the child will not be eligible for Title IV-E foster care maintenance payments for the duration of that stay in foster care. (42 U.S.C. 672 § 472(a) (2) (A)(ii)); 45 CFR § 1356.21(b)(1)(ii)

Eligibility is determined when the child enters an out-of-home placement. A child is Title IV-E eligible if the basic criteria are met when the child entered care. Eligibility for foster care funding and Medicaid is an ongoing process which involves:

- 3) Initial determination of eligibility; redetermination of Medicaid eligibility every twelve (12) months; and
- 4) The identification and collection of overpayments made to foster homes/child care facilities.

Reimbursability is determined on a monthly basis. The reimbursability criteria must be met for the state to receive federal support for the child. An assessment of several Title IV-E criteria is required to determine whether the child is federally reimbursable in any particular month. The child must be eligible to be reimbursable. However, once eligibility is established, a child may lose and regain reimbursability depending on changes in the circumstances of placement.

Foster board payments may be made to Resource Homes, group homes, emergency homes, or other facilities licensed by the agency for the purpose of providing foster care.

Administrative costs associated with a child who is potentially eligible for benefits under Title IV-E State Plan and at imminent risk of removal from the home, shall be considered for expenditure only if (a) reasonable efforts are being made to prevent the need for, or if necessary to pursue, removal of the child from the home and (b) a determination or re-determination has occurred not less often than every 6 months as to whether the child remains at imminent risk of removal from the home.

There are several criteria which a child must meet to be eligible for Title IV-E benefits. The eligibility conditions are summarized first, followed by a detailed discussion. The key factor of Title IV-E eligibility is the correct wording of the court order.

A removal of a child from the home must occur through either a written voluntary placement agreement, binding on all parties to the agreement, entered into by a parent or other legal guardian which leads to a physical or constructive removal (i.e., a non-physical or paper removal of custody) of the child from the home, or through a judicial order for a physical or constructive removal of the child from a parent or specified relative. (42 U.S.C. 672 § 472(a)(2)(A)(i-ii))

A removal has not occurred in situations where legal custody is removed from the parent or specified relative but the child remains with the same specified relative in that home under

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supervision by the MDHS/DFCS. A child is considered constructively removed on the date of the first judicial order removing custody, even temporarily, from the parent or appropriate specified relative or the date that the voluntary placement agreement is signed by all relevant parties. 45 CFR 1356.21(k)

II. Eligibility Requirements

A. Judicial Determination of Custody

(42 U.S.C. 672 § 472(a)(2)(A)(i-ii)) requires that, for eligibility under Title IV-E foster care, a child's removal from his home must either be pursuant to a voluntary placement agreement or the result of a judicial determination.

When a child is removed from the home, through a voluntary placement agreement or a judicial determination, the child's care become the sole responsibility of DFCS in order to be Title IV-E eligible. Children placed in the joint custody of DFCS and another person/facility will not be Title IV-E eligible.

B. Judicial Language

The judicial determinations for Title IV-E eligibility are intended to ensure that children are not removed from their homes unnecessarily. The first judicial determination must be to the effect that "continuation in the home would be contrary to the welfare of the child" ~~and~~ or "removal was in the best interest of the child."

There must also be a judicial determination that "reasonable efforts were made to prevent the child's removal from the home." This determination must be made even if the removal is only temporary.

In emergency situations, time does not allow for reasonable efforts to be made to prevent removal; therefore, the court order must indicate that "due to an emergency situation, reasonable efforts to prevent removal were not possible." If reasonable efforts were not made, there must be documentation that reasonable efforts are now being made to return the child to the home.

"The contrary to the welfare determination will be made in the first court ruling that sanctions (even temporarily) the removal of a child from home. If the determination regarding contrary to the welfare is not made in the first court ruling pertaining to removal from the home, the child will not be eligible for Title IV-E foster care maintenance payments for the duration of that stay in foster care." (45 CFR § 1356.21 (c))

For Title IV-E eligibility and pursuant to MISS. CODE ANN. § 43-21-603(7), the judicial

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determination must contain language as follows:

- "Removal was in the best interest of the child" ~~and~~ or "to remain in the home would be contrary to the welfare of the child"
- "Reasonable efforts have been made to maintain the child within his own home"
- "The circumstances are of such an emergency nature that no reasonable efforts have been made to maintain the child within his own home and there is no reasonable alternative to custody and;"
- "Reasonable efforts will be made to return the child," or
- "Reasonable efforts to maintain the child within his home shall not be required if the court determines that:"
 - "The parent has subjected the child to aggravated circumstances. (including but not limited to abandonment, torture, chronic abuse, and sexual abuse); or"
 - "The parent has been convicted of murder or convicted of voluntary manslaughter of another child of that parent; or"
 - "The parent has aided or abetted, attempted, conspired, or solicited to commit that murder or voluntary manslaughter; or a felony assault that results in the serious bodily injury to the surviving child or another child of that parent; or"
 - "The parental rights of the parent to a sibling have been terminated involuntarily; and"
 - "The effect of the continuation of the child's residence within his own home will be contrary to the welfare of the child and that the placement of the child in foster care is in the best interest of the child."

The first court order must specify "contrary to the welfare of the child," which defines the first month in which DFCS may collect federal reimbursement for the child, assuming all other criteria are met.

In situations where DFCS was unable to obtain a court order which contained clear language indicating the court's determination regarding the best interests of the child and the reasonable efforts of DFCS to prevent the removal of the child, a *Nunc Pro Tunc* (meaning "now for then") order cannot be used by the court to make a retroactive determination of the removal circumstances.

~~In all instances where the language is not clear, it is critical that copies of transcripts, tape recordings, or bench notes, demonstrating that sufficient information was provided to the court at~~

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~~the time of the court order removing the child, be kept within the case file.~~

Bench notes do not constitute acceptable documentation of judicial determinations. In accordance with the regulations, the only acceptable alternative documentation of judicial determinations, absent language in a court order, is a transcript of the court proceedings. We recommend that the State agency collaborate closely with the judicial system to assure that the necessary judicial determinations are made and appropriately recorded for children who must be removed from their homes.

Court orders that reference state law to substantiate judicial determinations are not acceptable, even if State law provides that a removal must be based on a judicial determination that remaining in the home would be contrary to the child's welfare or that removal can only be ordered after reasonable efforts have been made. (45 CFR § 1356.21(d)(3))

Further, a judicial determination must be obtained that states reasonable efforts were made to finalize the permanency plan that is in effect (whether the plan is reunification, adoption, legal guardianship, placement with a fit and willing relative, or placement in another planned permanent living arrangement) within twelve (12) months of the date the child is considered to have entered foster care, and at least once every twelve (12) months thereafter while the child is in foster care.

If such a judicial determination is not made, the child becomes ineligible under Title IV-E at the end of the month in which the judicial determination was required to have been made, and will remain ineligible until such a determination is made. (45 CFR § 1356.21(b)(2))

Quick Reminder: “Voluntary Placement Agreements”, “Constructive Removal” and “Voluntary Releases for Adoption” are not the same and not interchangeable phrases. Children who are voluntarily released (Voluntary Release for Adoption is signed) to DFCS prior to a judicial determination are not Title IV-E eligible.

Constructive Removal: is a paper removal. This means DFCS has obtained legal custody of the child but does not physically remove the child from the home where the abuse or neglect. (see <http://www.sccgov.org/ssa/fosterca/fchap17.pdf>)

Voluntary Placement: is an out-of-home placement of a child, by or with participation of DFCS, after the parents or guardians have requested the assistance of DFCS and signed a voluntary placement agreement, (see http://www.ssa.gov/OP_Home/ssact/title04/0472.htm)

Voluntary Placement Agreement: is a written binding agreement between DFCS and the parents or guardians of a child and which specifies, at a minimum, the legal status of the child and the rights and obligations of the parents or guardians, the child, and DFCS while

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the child is in placement. (see http://www.ssa.gov/OP_Home/ssact/title04/0472.htm)

Voluntary Release for Adoption: is a written affirmation that the surrendering parent(s) voluntarily released their parental rights to their child.

1. Voluntary Placement Agreements

"Voluntary placement agreements" contain several criteria which set them apart from voluntary releases for adoption:

- The assistance of the DFCS has been requested by the parents or legal guardians
- There is a written agreement, binding to all parties, which specifies the legal status of the child and rights and obligations of parents, child, and DFCS while the child is in placement
- It cannot exceed 180 days
- It can be revoked at any time by the parent or legal guardian

If a voluntarily placed child meets all other Title IV-E requirements, s/he may be Title IV-E funded up to 180 days from the date of the Agreement.

Prior to the release, while the Agreement is in effect, the DFCS can petition the court for a judicial determination regarding the removal of the child. If the court determines that ~~for the child to "remain in the home is contrary to the welfare of the child" and that "reasonable efforts were made to prevent removal,"~~ Title IV-E eligibility can be established beyond the 180 days.

The child cannot remain Title IV-E funded for more than 180 days without the judicial determination by a court to the effect that such a placement is in the best interest of the child. (42 U.S.C. 672 § 472(e); 45 CFR § 1356.22(b))

2. Goal of Services Provided to Parents or Other Relatives

Federal requirements governing Title IV-E foster care specify that the goal of services provided parents or other relatives will be to:

- Return the child to his own home;
- Arrange placement with other relatives;
- Make other appropriate plans for the child's permanent care such as adoption;
- Make some other plans that best meets the needs of the individual child.

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These services must be provided on a regular basis during the time of placement of the child in foster care, ~~and the plan of placement must be reassessed every six months~~. The safety, permanency, and well being of the child must be addressed at each review of the child's plan and documented in the case record. (See Section D, "Foster Care", for more details regarding requirements for the child's permanency plan.)

C. AFDC Eligibility Requirements 472(a)(3)(A)(i);(ii)(I)(II);(3)(B)

~~DFCS definition for AFDC Relatedness:~~

AFDC relatedness refers to the fact that in order for a child to be classified as Title IV-E eligible, he must have some relationship to the general AFDC program authorized under Title IV, Part A IV-A of the Social Security Act.

This relationship can be established if any one of the following criteria is met:

- In the month the child was removed from the home, the child was in an active AFDC case;
- In the month the child was removed from the home, the child would have been eligible for AFDC had an application been made; or
- In the six months prior to the month the child was removed from the home, the child was living with a qualified relative and would have been eligible for AFDC if an application had been made.

For those children who were not in an active AFDC grant at the time of removal, but there exists the potential that these children could be Title IV-E eligible if application were made, the following AFDC eligibility conditions apply:

- Age
- Enumeration
- Residence
- School Attendance
- Citizenship
- Living in the home of a specified relative
- Deprivation
- Need as determined by:

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- Resources (\$10,000) family unit
- Income

1. Age

The age limit for Title IV-E funding is eighteen (18) years of age. The Worker will have documented evidence of the child's date of birth in the social service case record.

Examples of documentation are birth certificates, school records, hospital records, immunization records, etc. Title IV-E funds cannot be utilized without verification of the child's age documented in the social service case record.

A child will lose Title IV-E eligibility and reimbursability when s/he reaches the age of eighteen (18).

2. Enumeration

The application for and disclosure of a Social Security account number is a technical factor of eligibility.

Only those children for whom there is in the case file a validated Social Security Number, or for whom an application for a Social Security Number has been completed are eligible for Title IV-E.

3. Residence

The child must be a resident of the State of Mississippi. Residents of the State of Mississippi are persons who are voluntarily living in Mississippi with the intention of making their home here. The child does not become ineligible for Title IV-E on the basis of residence in the event out-of-state placement is made or the child moves out of state with his Resource Parents or adoptive parents.

4. Compulsory School Attendance

It is mandatory that the child must attend school according to Mississippi mandatory school attendance law and that documentation is maintained in the case record.

[DFCS has a system that] provides assurances that each child who has attained the minimum age for compulsory school attendance under State law and with respect to whom there is eligibility for a payment under the State plan is a full-time elementary or secondary school

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student or has completed secondary school, and for purposes of this paragraph, the term “elementary or secondary school student” means, with respect to a child, that the child is –

(A) enrolled (or in the process of enrolling) in an institution which provides elementary or secondary education, as determined under the law of the State or other jurisdiction in which the institution is located;

(B) instructed in elementary or secondary education at home in accordance with a home school law of the State or other jurisdiction in which the home is located;

(C) in an independent study elementary or secondary education program in accordance with the law of the State or other jurisdiction in which the program is located, which is administered by the local school or school district; or

(D) incapable of attending school on a full-time basis due to the medical condition of the child, which incapability is supported by regularly updated information in the case plan of the child;

(42 U.S.C. 671 § 471 (a)(30))

5. Citizenship and Alienage

The child must be a citizen of the United States or an alien lawfully admitted for permanent residence or otherwise residing in the United States under color of law.

If the child is an alien, the case record must have verification that the child is a legal alien. The alien should have an INS 1-151 (Alien registration card), an INS 551 (Reentry permit), or an INS-I-94 (Refugee green card). In any case where the child is an alien disqualified by the Immigration and Nationality Act, the child is ineligible for receiving Title IV-E funds.

Subject to Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, if the child is an alien disqualified under section 245A(h) or 210(f) of the Immigration and Nationality Act from receiving aid under the State plan approved under section 402 in or for the month in which the agreement described in paragraph (2)(A)(i) was entered into or court proceedings leading to the determination described in paragraph (2)(A)(ii) were initiated, the child shall be considered to satisfy the requirements of paragraph (3), with respect to the month, if the child would have satisfied the requirements but for the disqualification. (42 U.S.C. 672 § 472(4))

Additionally, the state shall have in effect procedures for verifying the citizenship or immigration status of any child in foster care under the responsibility of the state under this part or part B, and without regard to whether foster care maintenance payments are made under 472(a)(27) on behalf of the child. (See, 42 U.S.C. 671 § 471 (a)(27))

No payment may be made to parents with respect to any applicable child for a fiscal year that:

d. Would be considered a child with special needs under 473(c)(2);

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- e. Is not a citizen or resident of the United States; and*
- f. Was adopted outside of the United States or was brought into the United States for the purpose of being adopted.*

A child that is not a citizen or resident of the US and was adopted outside of the US or brought into the US for the purpose of being adopted may be eligible for adoption assistance payments if the initial adoption of the child by parents is a failure and the child is subsequently placed into foster care. (See Social Security Act, Sec. 42 U.S.C. 673 § 473(a)(7))

6. Living with a Specified Relative

If a child was not removed from a parent, s/he had to have been living with another relative who comes within the fifth degree of relationship. The child and relative must live together in a place of residence maintained by the relative as his home. The child must also have qualified for AFDC during the month the child came into custody.

The following relationships meet the requirement of specified relative:

- Parents (either by birth, legal adoption or step relationship)
- Grandparents (up to great-great-great)
- Siblings (half, whole, step)
- Aunts/uncles (up to great-great)
- Nieces/nephews (up to great-great)
- First cousins
- Children of a first cousin (first cousin once removed)
- Spouses of any person named in the above groups even after the marriage is terminated by death or divorce.
- Verification of specified relative relationship can be achieved through private or public records (i.e. birth certificates, marriage certificate, divorce decrees, family Bible, or court order)

Removal has not occurred in situations where legal custody is removed from the parent or specified relative yet the child remains with the same relative in that home under supervision by the DFCS.

The child must have been living with the parent or specified relative, and was AFDC eligible in

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*that home in the month of the voluntary placement agreement or initiation of court proceedings;
or*

The child must have been living with the parent or specified relative within six months of the month of the voluntary placement agreement or the initiation of court proceedings, and the child would have been AFDC eligible in that month if s/he had still been living in that home. (See, 45 CFR 1356.21(k))

7. Deprivation

Deprivation of parental support is a condition for AFDC eligibility. A child is deprived of the support of one of his parents for one of the following reasons:

b) Parental absence from the home due to:

- Parental absence from the home may be due to lack of marriage, voluntary separation, desertion, or divorce.
- Deprivation exists when a parent lives at an address separate and apart from the child except when:
 - (1) the parent left home to seek or accept employment or
 - (2) the parent is absent solely because of active duty in the uniformed service of the United States.
- Continued absence exists when a parent is out of the home and the nature of the absence is such that it terminates or interrupts that parent's functioning as a provider of maintenance, physical care, or guidance for the child.
- The known or indefinite duration of the absence precludes the child from relying on the parent's support and care of the child, thus increasing the responsibilities of the caretaker relation with whom the child lives.

Deprivation will be established in relation to one or both legal and/or natural parents. If the child has a legal father and a different natural father, deprivation must be established in relation to both fathers.

In the case of a legally adopted child, deprivation is established only in relation to the adoptive parent(s). Deprivation is automatically established in cases where an individual has adopted a child.

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For Title IV-E purposes, deprivation must be established in relation to the home from which the child was removed or in relation to the specified relative's home at the time AFDC relatedness is being determined.

- Living with both parents. When a child is living with both the mother and father at the time of removal, the condition of deprivation shall be established in relation to one or both parents being incapacitated or in relation to the unemployment of the parent who is the principal wage earner.
- Living with one parent. When a child is living with only one parent at the time of removal, the condition of deprivation shall be established in relation to the absent parent.
- Living with qualified relative. When the child is not living with either parent at the time of removal and was removed from the home of a specified relative (a relative within the 5th degree) and both parents are living together or separately, the condition of deprivation will be established in relation to both absent parents.
- Living with someone other than parents or qualified relative. When the child is not living with either parent at the time of removal and was removed from the home of someone other than a specified relative, the condition of deprivation shall be established in relation to the specified relative's home at the time AFDC eligibility is being considered (during the six-month exception).
 - For example, if a child is removed from the home of a non-relative, the Worker may be able to establish that the child lived with his parent or a specified relative within the six months prior to court proceedings. This time will be considered to determine if the child would be AFDC eligible had an application been made. Whether or not deprivation is met must be established on the parent's situation.

If the child is removed from a non-relative and has not lived with a parent or a qualified relative within six months prior to custody, the child is not Title IV -E eligible.

a) Incapacity

Incapacity is a condition of deprivation which is applicable to the physical or mental incapacity of one or both parents. Medical documentation and a medical review are required for a determination of incapacity if the parent is not receiving a disability type of assistance, such as Supplemental Security Income (SSI) or Social Security.

b) Death

Death of a parent must be verified with supporting evidence such as a death certificate or verification from Social Security, etc. that the child(ren) receives survivor's benefits.

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c) Unemployment of the Parent who is the Principal Wage Earner.

When both parents are in the household at the time of removal and neither are disabled or employed, the Worker can make a determination as to whether the principal wage earner is unemployed. The Worker must have verification of wages/unemployment for the past two years to determine the primary wage earner.

D. Support from an Absent Parent

When a child is placed in care, the right of assignment of child support becomes the responsibility of the county to whom custody was given.

The Worker is responsible for identifying and reporting both legal parents of the child to Child Support Enforcement (CSE) for the collection and assignment of child support.

The Worker will enter the Eligibility Determination information Mississippi Automated Child Welfare Information System (MACWIS), MACWIS will refer all legal and putative parents to CSE. Through the Interface System, the Child Support referral will be sent to the designated county child support office.

Assignment of support rights cannot be waived or excused. If child support has been ordered the Worker will mail a copy of the order to the county CSE Office. CSE will determine whether to pursue admission of paternity and child support from the absent parent. The Worker is responsible for obtaining as much identifying information on the absent parent(s) as possible to ensure the referral will be complete. If additional information is required by CSE, the child support worker will contact the Worker who submitted the referral. (42 U.S.C. 671 § 471(a)(17))

Only legal parents (which includes adoptive parents) and putative fathers will be reported. Step-parents are not legally responsible for step-children.

If a child has been a recipient of AFDC at any time prior to custody, child support assigned and collected by CSE will be subject to recoupment of the AFDC benefit received by the child. Recoupment of the benefit will be deducted from the child's support payment before the payment will be forwarded to DFCS. Only the amount received at DFCS will be applied toward the child's board payment. If a child's funding source changes from Title IV-E to CWS or vice versa, CSE must be notified.

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1. Resources

The amount of real and personal property that can be reserved for the child's family unit cannot exceed \$10,000 per family unit. (see 42 U.S.C. 672 § 472 (a)(3)(B))

The family unit consists of foster children, mother, father, and any siblings under the age of eighteen (18) who are in the home at the time of the child's removal. After initial eligibility is determined, only the child's personal resources will be applied to the \$10,000 resource limit.

MACWIS will automatically assess the child's \$10,000 resource limit on a monthly basis.

Changes in a child's funding source may occur frequently as a result of the \$10,000 resource limit.

The Worker will disregard the home property occupied by the family unit as resources and any resources which are unavailable (such as property in probate proceedings, divorce litigations). For eligibility purposes, the family units combined equity value of personal and household effects cannot exceed \$10,000.

Methods for verification of resources include such sources as car tags, tax receipts, or bank statements. The Worker will inquire as to cash value on life insurance, burial plots, etc. The Worker will request the family unit to give and/or verify resource information; however, if the family refuses to provide resource information and verification, eligibility for Title IV-E funding cannot be determined.

The maximum amount of resources a child may have in order to be eligible for Title IV-E funding is \$10,000. The Worker will use these resources to assist in meeting the needs of the child. By using these funds to keep the resources under the maximum amount, the Worker will help the child to remain Title IV-E and Medicaid eligible.

2. Income

The child's Title IV-E eligibility must be based on the income requirements for the family members in the home from which he was removed. A regular AFDC budget is used to determine this eligibility.

MACWIS will make the determination based on the information input by the Worker.

The initial eligibility budget will include the family unit which consists of the legal parent(s) and any siblings under the age of eighteen (18) who live in the household from which the children were removed.

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The household's income will be verified before a Title IV-E eligibility determination can be made. Income consists of earned and unearned income, such as wages, unemployment, Social Security, SSI, veteran benefits, railroad retirement, child support, contributions, etc.

Verification for Social Security Administration /SSI benefits will be obtained through notices of award, and in some instances, can be verified through the MAVERICS system. Wage stubs, employer's statement and income tax forms may be used to verify earned income. Unearned income must be verified through the source from which it is received.

When the child is removed from the home of a specified relative rather than the legal parent, the child is considered to be a separate "assistance unit" and eligibility is determined using only the income and resources of the child and his/her immediate sibling group who reside with the relative from which s/he was removed.

The Worker may find it to be more beneficial for DFCS to include some members of the household as members of the assistance unit and other times it may not be beneficial. The Worker will review each case to determine the most advantageous assistance unit composition.

In situations where a couple is legally married or in situations where a couple is not legally married, and both have children from prior unions, the Worker will consider the household as having two separate assistance units. The child from the union shall not be considered a member of the assistance unit unless one of the deprivation factors is applicable to that child.

When a foster child has income, either earned or unearned, his/her income will be used to reimburse the DFCS for the monthly payments made to the Resource Home or child caring institution. Note the following procedures.

- Wages: The earnings are considered in the eligibility determination only if the child is between the ages of sixteen (16) and twenty-one (21) and not attending school.
- Child Support: The CSE (Title IV-D) staff will follow established procedures for transfer of such payments to appropriate county bookkeeping staff and will report the amount of the current obligation and any surplus transmitted that month from previous Title IV-D computations to the county bookkeeper.
 - County bookkeeper will document, in MACWIS, the amount received and the child's income will automatically be evaluated.
- Unearned Income: Social Security and VA benefits are considered in the determination of eligibility and in the determination of the child's net income to be included in MACWIS to ensure reimbursement. SSI is not counted in the child's test budget; however, the income will be used to reimburse the board payment.

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F. Transfer of Child to Tribal Agency

45 CFR Part 1356.67

The State agency has established and maintains procedures for the transfer of responsibility for the placement and care of a child under a State title IV-E plan to a Tribal title IV-E agency or an Indian Tribe with a title IV-E agreement. At a minimum, the State agency transfer procedures:

5. Are established and maintained in consultation with Indian Tribes;
6. Do not affect a child's eligibility, receipt of services, or payment under title IV-E or the medical assistance program operated under title XIX;
7. Establish eligibility for title IV-E at the time of transfer, if an eligibility determination is not already completed; and
8. Provide for essential documents an information necessary to continue a child's eligibility under title IV-E and Medicaid programs under title XIX to the Tribal title IV-E agency or an Indian Tribe with a title IV-E agreement, including but not limited to the following:
 - All judicial determinations to the effect that continuation in the home from which the child was removed would be contrary to the welfare of the child and that reasonable efforts described in section 471(a)(15) on the Act have been made;
 - Other documentation the State agency has that relates to the child's title IV-E eligibility under sections 472 and 473 of the Act;
 - Information and documentation available to the agency regarding the child's eligibility or potential eligibility for other Federal benefits;
 - The case plan developed pursuant to section 475(1) of the Act, including health and education records of the child pursuant to section 475(1)(C) of the Act; and
 - Information and documentation of the child's placement settings, including a copy of the most recent provider's license or approval.

(Not applicable to Tribes)

III. Reimbursability Requirements

A. Placement

To be Title IV-E reimbursable, the child must be placed in a licensed Resource Home or licensed child care institution.

1. Resource Home

A Resource Home for children is one licensed by DFCS as meeting the standards established for

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licensing. The term “Resource Home” includes adoptive homes. (See Section F policy)

2. Child Care Institution

A Child Care Institution is a child-caring institution, either private or public, which accommodates no more than twenty-five (25) children and is licensed by the State as meeting the standards established for licensing.

The term “child-care institution” means a private child-care institution, or a public child-care institution which accommodates no more than twenty-five children, which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing, except, in the case of a child who has attained 18 years of age, the term shall include a supervised setting in which the individual is living independently, in accordance with such conditions as the Secretary shall establish in regulations (42 U.S.C. 672 § 472 (c)(2))

In order for a child care institution to be eligible for title IV-E funding, the licensing file for the institution must contain documentation which verifies that safety considerations with respect to the staff of the institution have been addressed. (45 CFR 1356.30(f))

3. Adoptive Placement

An Adoptive Placement is an adoptive home that meets licensure requirements which has been approved through the Adoption Unit of DFCS.

4. Non-Reimbursable Placements

Detention Facilities – detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent are not considered Title IV-E reimbursable.

The term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent. (42 U.S.C. 672 § 472 (c)(2))

Relatives – Foster board payments are not made to children placed with relatives unless the relative becomes a licensed foster home.

A child may meet all of the Title IV-E eligibility criteria at the time of removal except that s/he is not placed in one of the reimbursable placements outlined in 1-3 above.

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There is no time limitation on the child becoming Title IV-E reimbursable if all factors, except placement, are met initially. If later, the child enters an approved facility, thereby meeting all of the factors, s/he should become Title IV-E reimbursable.

Administrative costs associated with an otherwise eligible child who is in an unallowable facility or an unapproved or unlicensed relative home, and who is removed in accordance with section 472(a) from the home of a relative specified in section 406(a) (as in effect on July 16, 1996), shall be considered only for expenditures: (a) for a period of not more than the lesser of 12 months or the average length of time it takes for the State to license or approve a home as a foster home, in which the child is in the home of a relative an application is pending for licensing or approval of the home as a foster family home; or (b) for a period of not more than 1 calendar month when a child moves from a facility not eligible for payments under this part into a foster family home or child care institution licensed or approved by the State.

(http://www.acf.hhs.gov/cwpm/programs/cb/laws_policies/laws/cwpm/qaHistory.jsp?citID=36&id=794) (See, 42 U.S.C. 6720§472(i)(1)(A) and 45 CFR 233.90(v)(c)(1))

B. Foster Teen Parent

When a child in custody gives birth to a child, special instructions apply. If the baby is taken into custody, the baby will have eligibility determined as a foster child. ~~The only exception to the eligibility determination is that, if the baby is not removed from the home in which the mother is placed; the baby cannot be Title IV-E eligible. Title IV-E requirements are based on "removal from the home".~~

Section 475(4)(B) of the Social Security Act requires that foster care maintenance payments for a minor parent in foster care cover a child of such parent if the child is placed with the minor parent. Neither the statute nor regulations require the State to have placement and care responsibility for the child in order for such costs to be included in the minor parent's foster care maintenance payment. Good social work practice suggests that the minor parent's case plan include the needs of the child and that the child's needs and interests be addressed during the six-month periodic reviews and permanency hearings held on behalf of the minor parent. However, the State is not required to satisfy these requirements independently on behalf of the child because s/he is not under the State's responsibility for placement and care and, therefore, pursuant to Federal law and regulations, is not in foster care.

However, if the baby is not placed in custody and is placed in the same home as the mother, a special board rate will be given to the Resource Parents to help with the care for both minor mother and baby. The board payment will remain the special rate for the duration of the custody episode, provided the child remains in the home with the mother and is not in custody.

In cases where (i) a child placed in a foster family home or child-care institution is the parent of a son or daughter who is in the same home or institution, and (ii) payments

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described in subparagraph (A) are being made under this part with respect to such child, the foster care maintenance payments made with respect to such child as otherwise determined under subparagraph (A) shall also include such amounts as may be necessary to cover the cost of the items described in that subparagraph with respect to such son or daughter. (42 U.S.C. 675 §475(4)(B))

(j) Child of a minor parent in foster care. Foster care maintenance payments made on behalf of a child placed in a foster family home or child care institution, who is the parent of a son or daughter in the same home or institution, must include amounts which are necessary to cover costs incurred on behalf of the child's son or daughter. Said costs must be limited to funds expended on items listed in the definition of foster care maintenance payments in §1355.20 of this part. (45 CFR §1356.21(j))

IV. Medicaid Eligibility

The medical expenses of all children in the custody of DFCS are paid, and the primary sources of funding are Medicaid and local/state funds.

Foster children are Medicaid eligible when the child:

- Receives SSI. The Medicaid benefits are authorized by the Social Security Administration.
- Is eligible for and receiving Medicaid in the home of a parent or unlicensed relative. The eligibility determination and authorization are handled by the Division of Medicaid office in the county of residence.
- Meets the following eligibility requirements:

A. Custody

The child must be in the sole custody of the DFCS. Children placed in joint custody of DFCS and another person(s) will have their Medicaid eligibility determined by the local county Medicaid Office. Application must be made by the joint custodian or the COR Worker if the joint custodian is not a licensed resource home.

B. Resources

The child's own resources cannot exceed \$10,000. MACWIS automatically re-evaluates the child's resource limits for Medicaid eligibility every month. The Worker will make every effort to maintain the child's resources below \$10,000.

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Children who receive SSI Medicaid will not be affected by the \$10,000 resource limit. However, SSI has a resource limit of \$2,000 which will terminate SSI Medicaid and monetary benefits.

C. Income

The child's monthly unearned income will be tested against the 185% AFDC need rate for one child which is \$403. If the child's monthly unearned income exceeds \$403, the child will be ineligible for Title IV-E Medicaid. The child's own unearned monthly income will then be tested against the State Foster Care Need Standard. The State Foster Care Need Standard is the set amount of money established by the State for the foster care of this child. The amount may vary depending on the age and circumstances of the child and the type of home or institution in which s/he is placed. MACWIS will test, on a monthly basis; the child's income against the board rate the child is eligible for based on the age of the child and the placement.

If the child's unearned income is below this rate, the child is eligible for CWS Medicaid.

A child in a licensed relative placement will have his/her Medicaid eligibility determined by testing his monthly unearned income against the regular board payment rate based on age for CWS Medicaid.

If the child's unearned income exceeds the amount of the board rate, the child is ineligible for Medicaid through the foster care system. The Worker will refer the relative/child's assigned worker) providing care, who may be eligible for Medicaid, to the Division of Medicaid office.

Medicaid Card. Children who are eligible for Medicaid will be issued a one time plastic Medicaid card. The card will be mailed to the ~~Resource Home or to the~~ County of Responsibility (COR) ~~when a child is in a facility~~. In the event the child is placed outside his own county, the COR Worker will be responsible for obtaining the card ~~from the (or)~~ placement and moving the card with the child. A duplicate Medicaid card can be requested from the Electronic Data System (EDS) by the Worker, should the card be misplaced. When the child leaves custody, the Worker should retrieve the card from the placement and give the card to the child's custodian or to the child, if the child is age eighteen (18) or older and file a copy of the card in the child's case file.

D. Interstate Compact Placement of Children/COBRA Medicaid

Title IV-E foster children receiving Title IV-E adoption assistance and ICPC children who are Title IV-E eligible in the state of origin are eligible for Medicaid in the state in which they reside provided a) the Worker has written verification that the child is Title IV-E eligible in the state of responsibility and b) the child is in a licensed Resource Home/facility in Mississippi.

The Worker will be responsible for initiating Medicaid for ICPC/COBRA children provided the

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children have entered the state through ICPC. If the children are not known to ICPC at State Office, the Worker will direct the Resource Home/Facility to the county Economic Assistance office for application of Medicaid benefits.

E. Third Party Liability

DFCS is required to take all reasonable measures to determine the legal liabilities of a "third party" to pay for medical services. The Worker will report all Third Party Liabilities (TPL) to Eligibility either by documentation to the Eligibility Unit or by entering the information in MACWIS. The Worker will make direct inquiry to the parent(s) or guardian regarding whether the child has any type of private insurance coverage.

F. Refugees and/or Unaccompanied Minors

The Worker will be alert to any children coming into care who may qualify for federal funds under the Refugee Act of 1980 (see 45 CFR 400). The funds are available for an eight (8) month period beginning with the first month of entry into the United States. For unaccompanied refugee minor cases, funds are available as long as the child is in care.

There are two broad categories of children who may qualify for refugee funding:

- Those entering the United States with their families.
- Those designated as "unaccompanied minors" on the 1-94 cards.

Since the plan for these children does not include "returning the child to the home", these children must be certified for Child Welfare System (CWS) funds and not Title IV-E. The children will also be eligible for Medicaid benefits. To be eligible for foster care refugee funds, one of the following conditions must be met:

- The child must have been removed from the home of a family receiving refugee financial and medical assistance and the child must have been included in the grant, or
- The child has appropriate refugee or alien status as established by the National Immigration Service (NIS) and the child has been in the United States less than eight months, or
- The child entered this country without a family and has received appropriate unaccompanied minor status by the NIS.

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G. Child Welfare Service Eligibility

Payments for Title IV-E foster care end one month following child's eighteenth (18th) birthday.

Children who are not eligible for Title IV-E foster care payments will have their needs tested to determine eligibility for foster care payments to be made from Title IV-B, CWS, funds. The criteria for CWS eligibility are that the child:

- Must be in the custody of the DFCS and under twenty (20) years of age if the court order is by the youth court or under twenty-one (21) years of age if the order is by the chancery court.
- Must be placed in an approved Resource Home or child caring facility.
- Own unearned income must not be over the amount of the board payment for his/her age group.
- Cannot have resources which exceed \$10,000.

If all of the above criteria are met, the child will be eligible for foster care payment to be made from CWS funds.

Use of "Local" Funds:

The child's own monthly income, if any, is considered "local" funds. The child's own income up to the amount of that child's board payment will be used and applied toward his board payment each month.

Documentation of the receipt of income for a child will be made in MACWIS and MACWIS will evaluate that information in relationship to eligibility and the amount to be applied to the monthly board rate.

V. Processes

A. Initial Eligibility Determination Process

The following process will be used to determine initial eligibility:

In order to meet this initial determination timeline, the COR Worker will have five (5) days to send the Eligibility Unit a copy of the court order that includes "reasonable efforts" language; child's birth certificate (or application); child's Social Security card (or application), proof of income; and resources. The Eligibility Unit then will have five (5) days from receipt of required documents are received to approve a placement for a child as their work load permits.

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If documentation is missing, the Eligibility Unit will notify the Worker via the Eligibility tab/screen in MACWIS. The Worker will have 5 days to return the needed documents. This documentation notification will be sent to the Worker and the Area Social Work Supervisor (ASWS) by e-mail.

The Eligibility Unit will determine eligibility for Title IV-E, CWS and Medicaid.

1. Change in Placement

The Worker will enter custody and placement information in MACWIS within three days of the date of custody. When Title IV-E eligibility information and documentation are received, it should be entered into MACWIS by the COR Worker on the appropriate eligibility screens. The eligibility process should be completed in MACWIS within 10 days from the date of custody.

All court orders, verification of birth, Social Security card, verification of income and resources must be maintained in the case file. MACWIS will determine the child's eligibility for Title IV-E, CWS, and Medicaid based on the information entered by the Worker.

In the event of the placement change, the COR Worker will have five (5) days from the date of the change to enter a placement change. The Eligibility Unit will have five (5) days to approve the placement change.

B. Redetermination Process

Re-determinations on children in custody are completed annually and notices of these re-determinations are generated by MACWIS as follows:

4. First notice will be sent to the COR Worker as a tickler sixty (60) days prior to the anniversary month of the effective date of the previous eligibility determination.
 - a. Following the Permanency Hearing, the COR Worker must verify that the court order contains the appropriate language.
 - b. This must be documented in MACWIS by selecting "Court" then click the "Legal History" icon.
 - c. Go to "Detail" Tab and click "add new button".
 - d. Enter the new information, making sure to check the "yes" button for the "reasonable efforts" made to finalize a permanent plan question on "Edit Permanency Hearing Record".

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5. Thirty (30) days from the generation of the first tickler, the COR Worker will receive an alert and the ASWS will receive a tickler.
6. Forty-four (44) days from the generation of the first tickler, the ASWS will receive an alert and the Regional Director (RD) will receive a tickler.

Prior to time for re-determination, the Worker will receive a tickler as a reminder to review the child's case and complete the redetermination process.

The re-determination process for obtaining Permanency Orders and Medicaid continue. However, as of April 1, 2010, it is no longer necessary to re-determine IV-E eligibility based on income, resources, or deprivation.

C. Change Process

In the event of a change in custody and/or placement, the COR Worker will have five (5) days to enter the information in MACWIS. The Eligibility Worker will have 5 days to approve placement changes.

The COR Worker shall enter changes as soon as they occur. MACWIS will automatically assess the changes and adjust the eligibility status and make the appropriate board or stop IV-E payments. (i.e. when a child reaches eighteen (18) years old.)

It is imperative for the COR Worker to enter the custody removal and placement change dates as soon as they occur to avoid over and under payments to the resource placements.

D. Overpayment Process

The Eligibility Unit, as well as other units, will identify over- and under-payments by viewing the board payment register screen in MACWIS. ~~If an overpayment is discovered, the Unit will send to Management Information Systems (MIS) a retrieval memo which identifies the check number, name, and amount of the check to be pulled before it is mailed.~~

~~MIS pull the check(s) and the Division Director of Eligibility will retrieve the check(s) from MIS. A Form 121 will be submitted to Client Services to cancel the check.~~

~~The Eligibility Unit will submit an incident report so the Resource Home will be paid the correct amount for that particular month. The correct amount is based on the dates entered in MACWIS. The correct payment will be paid the next month.~~

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~~Each county must review the board payment register monthly to verify it for accuracy. The ASWS will notify the RD that the county register has been verified, and the RD will notify the Director of the Eligibility Unit that the entire region has been verified prior to the 9th of the month. (Note: this process was added last month at Senior Management).~~

~~The Eligibility Unit will notify the Worker about the overpayment and the Resource Specialist will notify the foster parent of the overpayment.~~

If the Resource Parent receives an overpayment, the Resource Parent will send the overpayment to Budgets & Accounting at the State Office.

To reduce erroneous over/under board payments, a daily confirmation tickler process was added to MACWIS for the purpose of notifying the FPS worker that a placement board payment for a child must be confirmed (the process will escalate the tickler up to the ASWS on the 1st day of the month and to the RD on the 4th day of the month if the tickler is not worked). These placement board payments must be confirmed by the 7th of each month or the prior business day if the 7th occurs on the weekend or a holiday.

E. Debit Cards

All recipients of the Adoption Subsidy payments or Foster Care Board payments will receive the payments via the Mississippi Debit MasterCard.

- Adoption Subsidy payments are designed as a supplemental financial benefit to assist families adopting an eligible child with special needs who would not likely be adopted otherwise. The child must be determined eligible for adoption subsidy by the Resource Specialist and approved by the Resource ASWS.
- Board payments are available for eligible child(ren) placed in the custody of the DFCS and whose placement and care are entrusted to a licensed resource home or child care institution. Eligibility is determined when the child enters an out-of-home placement.

In order to issue a debit card, the payee must have an e-payment account established through the Master Client Tracking System (MCTS). The MCTS will not accept payees who do not have a validated Social Security Number and date of birth. MACWIS will interface with the Social Security Administration for the purpose of validating the Social Security Number of all payees. If the Social Security Number is not validated by Social Security Administration, a tickler will be generated to the Worker currently assigned to the case.

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Adoption subsidy and foster care board payments are controlled by the data entered into MACWIS. It is the responsibility of the Worker to ensure that the correct data is gathered and input into the MACWIS in a timely manner.

After the eligibility has been established and payment authorized, the process is as follows:

- It is the responsibility of the Worker to complete the eligibility process within the timelines set forth in policy. The Resource Parents must be advised of the procedures for payment and method of payment delivery.
- Payments will be issued on the fifteenth (15th) of the following month.